

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

|                                   |   |   |
|-----------------------------------|---|---|
| Jerry Michael Boggs, #25803-018   | ) | Civil Action No.: 8:09-227-HFF-BHH      |
|                                   | ) |   |
| Petitioner,                       | ) |   |
|                                   | ) |   |
| vs.                               | ) | <b><u>REPORT AND RECOMMENDATION</u></b> |
|                                   | ) | <b><u>OF MAGISTRATE JUDGE</u></b>       |
| Warden Edgefield Satellite Prison | ) |   |
| Camp,                             | ) |   |
|                                   | ) |   |
| Respondent.                       | ) |   |

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2241. On April 2, 2009, the respondent filed a motion for summary judgment. On April 3, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately.

On April 16, 2009, Petitioner filed a motion for extension of time to respond to the motion for summary judgment. On April 20, 2009, an Order granting petitioner's motion was issued, giving him until June 8, 2009, to respond to the motion for summary judgment. Despite this explanation in the *Roseboro* order, and the extension of time, the petitioner did not respond to the motion.

As the petitioner is proceeding *pro se*, the court filed another order on June 15, 2009, giving the petitioner through July 8, 2009, to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The envelope containing this order was returned as undeliverable "forwarding order expired" on June 29, 2009. After a check of the BOP website by the Clerk's Office staff, the order was re-mailed to the petitioner at his new address of CCM Orlando, 6303 County Road 500, Wildwood, Florida 24785. The

response date for petitioner to respond to the motion for summary judgment was reset to July 23, 2009. The petitioner has not responded to the summary judgment motion.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks  
United States Magistrate Judge

July 27, 2009

Greenville, South Carolina Carolina